

8776.66
SOME STRICTURES

Cartin (Robert)

ON THE

R
ANCHOLME DRAINAGE;

Address'd to the smaller Non-commission'd
Freeholders and Occupiers of Land in
that Level.

Absentem qui lædit Amicum,
Qui non defendit, alio lædente,
Hic niger est: hunc Tu — caveto.

In the Adversity of our best Friends, we always find
something which does not displease us.

We are all strong enough to bear each other's Mis-
fortunes.

Rochefaucault's Maxims.

LINCOLN:

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M,DCC,LXXIII.



S I R S,

I BEG Leave to send you a Copy of
what I intend saying at the
DRAINAGE MEETING, the 6th.
of October next, that you may have Time
to consider it, and to object to what you
shall think improper, and refute what is
false.

I am, S I R S,

Your most humble Servant,

ROBERT CARTER.

REDBOURN,
July 30, 1772.



To the Commissioners of the ANCHOLME
Drainage Act.



GENTLEMEN,

THE last Time I had the Honour
“ T “ of addressing you at the General
“ Meeting, it was pretty nearly in
“ the following Terms. That I
“ look’d upon the General Meeting as design’d
“ to take into Consideration the General State
“ of the Drainage, and should therefore only
“ speak to that Point first. That I never at-
“ tended the Meetings or concern’d myself in
“ any other Business but to solicit the determi-
“ nation of some Questions relating to myself;
“ That if ever I did mention other Subjects,
“ it was unhappily only to find fault with, and
“ protest against the Proceedings of the Com-
“ missioners as unfair and unjustifiable. That
“ I was sorry to be oblig’d to do so, for I did
“ not seek out for Occasions to bring a railing
“ Accusation against them, but that they fell
“ in my way by Chance without Enquiries.
“ That going over the Level from *Barton* to
“ *Broughton*, I saw some, and was inform’d of
“ more Works done on private Estates, at the
“ public Expence, which had not the least Re-
“ lation or connection with the general Drain-
“ age. That I often had remonstrated against
“ them

“ them as unjust and partial, but without ei-
 “ ther any Answer or Effect, and that they
 “ went on complimenting one another with
 “ private Jobs, at the public Expence. That
 “ lately going a fishing into the Carrs, and
 “ enquiring what they were doing in the
 “ Drainage, was told by the People who assist-
 “ ed me, that they were only cleaning out the
 “ Ditches, Drains, and Becks in *Househam*,
 “ *Cadney*, and the *Kelseys*, and they with a
 “ Smile confess’d that they did not know why,
 “ as they could not say on my asking them,
 “ they had any Relation to a General Drain-
 “ age. On this I sent a Person to see what
 “ had been done there, and was informed that
 “ not much less than 2000 Roods of private
 “ dyking in *Faraway Dyke*, *Cadney Drain*,
 “ *Ware Dyke*, *Piss-a-bed Dyke*, 30 Feet River,
 “ and *Kelsey Drain* and *Beck*, were done in those
 “ Lordships, and at no less Expence than 4 or
 “ 500l. to the Public. That upon these
 “ Grounds I charg’d the Commissioners with
 “ an Abuse of their Trust, and a Mis-appli-
 “ cation of the Public Money to private Jobs,
 “ which had not the least Relation to a Public
 “ Drainage. Why should these Lordships be
 “ so particularly favour’d but from undue Par-
 “ tialities? That every other Lordship had the
 “ same Right or Claim to the same Works,
 “ and if they were done for one, they should
 “ be

“ be done for all. That I was particularly ag-
 “ griev’d, injur’d and robb’d of my Property
 “ by the absurd and unjust Principles of the
 “ Bill, and wou’d be much more injur’d by
 “ the undue Execution of it. That having
 “ unfortunately the 29th. Part of the Level, I
 “ was again made subject to the 29th. Part of
 “ the Expence of the General Drainage, tho’
 “ I had not the 100 nor perhaps the 150th.
 “ Part of the Value of the Level. That there-
 “ fore out of this 4 or 500l. which has been
 “ expended upon the private Ditches of *Houfe-*
 “ *ham, Cadney, and Kelseys*, 12 or 15l. wou’d
 “ fall to my Share to pay, and therefore I
 “ look’d upon myself as much robb’d of that
 “ 12 or 15l. so misapplied, contrary to the In-
 “ tent and Meaning of the Act, as if it was
 “ taken out of my Pocket; and that every
 “ other to the pettiest Freeholder, was equally
 “ wrong’d by it in Proportion. That I had
 “ made the same Complaint 2 or 3 Years ago,
 “ when those Ditches were shear’d at the pub-
 “ lic Expence and no other Lordship indulg’d
 “ with the same Favour, which Partiality was
 “ then taken Notice of by the common Peo-
 “ ple of the adjoining Parishes, and much
 “ complain’d of, as being oblig’d to shear for
 “ themselves to save their Carrs. A Gentle-
 “ man then present who might recollect it,
 “ had indeed by Way of Apology, or flurring
 “ the

“ the Matter over, to me privately, said, that
 “ the Tenants had begun to complain of the
 “ Weight of the Rent and Taxes, and could
 “ never do the Ditches themselves. But does
 “ not the same Hardship extend to the Ten-
 “ ants of other Lordships, and is it a Reason
 “ why they should be cleaned at the public Ex-
 “ pence? If hard upon the Tenants to clean
 “ their Ditches, then let the Landlords do it,
 “ or lower their Rent, rather than throw
 “ them on the Public, which has no Kind of
 “ Obligation to do them. That I knew the
 “ Surveyor wou’d pretend they were done for
 “ turning the Water while the great Drain
 “ was cutting. But this Pretence is equally
 “ false and absurd, and shews in him as little
 “ Skill and Judgement, in my Opinion, as it
 “ does Justice to the Public. For it is for-
 “ cing Water contrary to Nature, up Hill,
 “ and at 5 Times the Expence and Distance it
 “ might have been done by the old River, the
 “ natural Course of the Water, and which
 “ might have been cleaned out in only a few
 “ Places sufficient for a Watercourse, at a very
 “ trifling Expence. But this wou’d not have
 “ answer’d their Purpose, for all the Weight
 “ of Favouritism, Power, and Interest lies be-
 “ low *Brigg*, and above *Brigg*, only hitherto
 “ on the East Side. That indeed they were
 “ either so sensible, or so afraid of the unjusti-
 “ fiableness

“fiableness of these Side-works, as to keep a
 “separate Account of, and take Council’s
 “Opinion upon them, and which seemed to
 “be against them.” (This Opinion was then
 read, and the Matter by it as far as it could be
 understood, was made to depend upon other
 Questions, determinable by the Commission-
 ers, which, however, are not yet determin-
 ed.) “I added that no Works shou’d be com-
 “prehended under a General Drainage, and be
 “done at the public Expence, but such as
 “were of general Utility, such as the Lock,
 “Sluice, and General Drains, sufficient to
 “carry the Waters of the whole Level off,
 “nor was any Thing more done as pub-
 “lic Works in the *Holderneffe*, and *Witbam*
 “Drainages. That the Public was concern’d
 “in nothing further, but that each Lordship
 “was to scour their Ditches leading to these
 “General Drains and Works, at their own
 “private Expences. That if we were to de-
 “viate from this Line into these private Drains
 “and Ditches, they must be done for all as
 “well as for one, and then in that Case
 “100,000, or 150,000l. wou’d not be suffici-
 “ent for that Purpose, and all the Money
 “that cou’d be raised upon the Tolls and
 “Taxes would be laid out before the General
 “Drainage was effected. That therefore none
 “of these bye-Works shou’d be done till the
 “main

" main Work was finished, if at all: That I
 " wondered how any Commissioner, consider-
 " ing his Oath, wou'd compliment any Gen-
 " tleman with the Public Money, or how any
 " Gentleman wou'd desire or even accept it.
 " But I desired to see by what Order these
 " Ditches were cleaned; and by whom sign-
 " ed." Upon examining the Books, there
 appeared no particular Order, but a Kind of
 general summary Resolution, assuming an un-
 limited Power, without the least Regard to
 the Act, of ordering whatever Ditches and
 Drains they shou'd think proper to be done,
 and which have been done accordingly and in
 Consequence. This was look'd upon and con-
 demned by every disinterested Person there, as
 an unjustifiable Stretch of Power.

Nobody answered my Charge of an Abuse
 of Trust, and Mis-application of the Public-
 money; and after some vague random talk-
 ing, Sir C. *Wray* desired me to put my Moti-
 ons upon the Whole into Writing. And in
 my Hurry and Inexperience in Business, I
 forgot my principal Motion of exonerating the
 Trust from the Expence of cleaning out these
 private Ditches, and laying it on the Propri-
 etors, and only brought in the two following,
viz. Resolved, that the only main, essential,
 and public Drains of the Level above *Brigg*.

are the old and new *Ancholmes*, and ordered, that no private Ditch, Drain, or Brook whatever, in any Lordship on either Side, be taken into Consideration till those two main Drains are effected.

I will venture to say, that upon the fullest Examination this will at last be found the most rational, just, and feasible Plan that can be gone upon, or executed in the upper Level.

However, in putting the Question, my first Resolution was carried against me, without any Arguments but Numbers, and the second was affirmed, but in such a Manner as to render it quite ineffectual, by tacking to it the Words, *Any further than for turning the Waters*, during the cleaning the new *Ancholme*, which was deem'd more eligible both for Navigation and Drainage; Whereas it should have been restrain'd to the Old *Ancholme*. But by this Means and under this Pretence, the Surveyor is at liberty to clean out whatever private Drains *he* shall think proper, and *say* is necessary for turning the Water. And finding myself overcome only by Ignorance and Confidence; Assertions for Arguments, and *Sartenes* for Proofs, I grew so out of Temper and Patience as to give all up, and said only to several aside, that they had already taken my Estate from me, and that they might do what

B

they

they pleas'd for me, as I found I cou'd obtain neither Favour nor Justice in any one Point I urged.

This is nearly the Substance of what I said, except on my own Business, and what was done at that Meeting; I have now only to add, that I continue in the same Sentiments, and am of Opinion that all the internal Works done in private Lordships at the public Expence do not any Way belong to the Drainage, and consequently the Expence of them shou'd not fall on the Public, but on the Possessors. We consult Lawyers upon Points where common Sense and common Honesty alone can decide. Read the Act and the Opinions of Lawyers, consulted thereon, and what is the Result but *ignotum per ignotius*. We have always found it so, for upon referring to both, we have never been enlighten'd or inform'd in the Matter of our Doubts. Ask common Sense and it will tell you, that tho' a Public Drainage includes a private Drainage, yet a private Drainage does not include a public one. That public Money should be applied only to public Uses; that *Redbourn*, *Waddingham*, or *Norton*, are no Way included or benefited by *Piss-a-bed*, and *Faraway Dykes*, &c. in *Housetham* and *Cadney* being cleaned, but that they are by a Lock, a Sluice, and a grand

grand General Drain or Drains. I cannot therefore comprehend in the Name of common Sense, that any other Works can belong to a General Drainage, but such as I said before are of general Utility; such as a Lock, Sluice, and a general Drain; For Instance, a poor Freeholder in *Waddingham*, which I know to be a Case in Point, has 20 Acres in the Middle of the Cars, for which he pays a Tax of 20 half Crowns; he receives only a Benefit from the Lock, Sluice, and main Drain, and from no side Works in any other private Lordship, and therefore whatever public Money is expended upon them, he pays his proportionable Share towards it without any Advantage, unless they wou'd also clean his Ditches at the public Expence, which I dare say no one of the Commissioners wou'd Vote for. They wou'd tell him there was a main Drain made for the carrying off his and all others Waters. If one Lordship is to have their Ditches clean'd out for them, why not another, and then why not all; I hope the Proprietors of those Lordships whereon the public Money has been expended, will take the Matter into Consideration, see it in its proper Light, as highly unjust, and refund it to the Trust. Nothing but Interest can make them see it in any other. The Act in itself is unjust and absurd enough; let us not

add more Injustice and Absurdity in the Execution; let us not so much consider what it says or means, which is generally unintelligible, and where it is intelligible very unjust, but what it shou'd say and mean. It was designed (tho' upon the most unjust principles) for a General Drainage; the Lock, Sluice, and one or two main General Drains are sufficient for that purpose. Let them be done first at the public Expence; and let the Proprietors do their own internal Ditches at their own Charges; And if, after having done that, any can prove that they are not effectually drained: in that Case, it wou'd be highly proper and just that some new Work shou'd be done for them at the public Expence, towards the more effectual draining of them, as they have contributed their Taxes towards a General Drainage. I must say that I think particularly, that those Proprietors for whom most of the public Money has been expended, are the most able to refund it, as they will be so considerably benefited by the Act, and therefore I hope will be the most ready to do it. I know from my own sad Experience, my Landlord in the Carrs has with Circumstances of a most unrelenting Rigour raised me or my under Tenants to 5 Times the original Rent, even before any Advantage has accrued from it. I don't know whether, then I shall

shall be able to throw even the Tax upon the Tenant, so that you see I can be no Gainer at all, probably a great Loser. The more Money which is spent unnecessarily upon the Drainage, adds to my Injury and Loss: therefore you see, I not only speak upon the general principles of Justice, and in the Cause of little Freeholders who have no Interest, but also as I confess upon self Defence. But whatever others do, I shou'd be asham'd to ask, and do hereby absolutely disclaim to have any of the internal Ditches or Works at *Redbourn*, done at the public Charge: I shou'd consider it as unjust, and mean to the last Degree. If 20 Shillings shou'd be laid out there in Works no Way relating to the General Drainage, it is not the Authority or Sanction of an unanimous Vote of the Comissioners for it, that could render it just, or acceptable to me; for tho' 19 Shillings out of that 20 may come out of the Pockets of those who have their 1000 and 10,000, yet the other one coming out of the Pocket of the poor Freeholder would poison it all.

Whatever Wrong I have and do suffer by these Works, I desire not to re-imburse myself by making Reprisals in doing Wrong to others. I repeat, what I said half aloud when the House of Commons rejected my most just
Pleas

Pleas for Redress, by the superior Address, Interest, and Rancour of my Adversaries, who seemed to exult in their poor Victory; that in these Sort of Causes; I wou'd rather be the vanquish'd than the vanquishing Party. And with Regard to this Point of having Interest with the Commissioners, or rather the Surveyor, who seems a Plenipotentiary in the Drainage, to have any private Jobs done for me at the public Expence, I exclaim with *Brutus*,

*By Heaven! I had rather coin my Heart,
And drop my Blood for Drachmas; than to wring
From the hard Hands of Peasants their vile Trash
By any Indirection.*

At the same Time that I give up, refuse, disclaim, and will not suffer any Assistance from the public Trust, towards the private internal Drainage, of poor persecuted, luckless, friendless *Redbourn*, I must insist upon the Point of the Old *Ancholme* being kept open at the public Expence, for public Uses and public Reasons. Admitting the new Cut as a straight one, the properest (as being the shortest for a Navigation) it cannot be deemed so in the Eye of Reason, and upon Hydrostatical Principles for Drainage; The strait Cut often crosses the highest Lands, as may be seen by the Eye opposite to *Redbourn*,
and

and doubtless in many other Places. But the old River must *necessarily* and in the Nature of Things, be the most proper Drain of a Level, as it must wind its Course along the *lowest* Parts throughout. Besides it is the Boundary between all the Lordships above *Brigg*, and to which all their Brooks, Drains, and Ditches tend, as to the lowest Point, and therefore must, upon both Accounts, be kept open either at the public or private Expence. The new Cut where it runs far off (as it does in some Places half a Mile or more) cannot drain the lower Grounds lying on the Borders of the old River. Perhaps I am singular in my Opinion, but if I had the Direction of the Drainage, after the most mature deliberation and most attentive Survey of the Plan and Level itself, I wou'd, at least above *Brigg*, make the old River the only Canal, both for Drainage and Navigation; For the Windings are so gentle as wou'd neither affect the Drainage nor Navigation (if there can be one) materially, and the Difference of Distance wou'd not perhaps exceed 4 or 5 Miles between *Brigg*, and *Bishop Briggs*. By this Means every Lordship wou'd touch every Point of the Drainage and Navigation, and consequently receive the greater Benefit therefrom. Besides it wou'd save very great Expences to the Public, and prevent Inconveniences to the Proprietors

Proprietors arising from the new Cut, which intersects Estates often very inconveniently, and to remedy which, Bridges, at a very great expence, must be built over to the Lands so intersected, and must be a great Hindrance to Navigation, if there should be one; for Instance, the new Cut touches *Redbourn* at both Extremities, and intersects from the upper one, a Carr of 27 Acres, and from the lower one, a Car of only 7 or 8 Acres, and to each of which the Commissioners must give me some Communications. The further ill Consequence arising from it is, that touching the Drain only in those Points, *Redbourn* can receive little or no Benefit from either Drainage or Navigation, at least in the intermediate Parts. Besides it makes me and all others in the same Situation dependant upon the Will and Power of another, whose Lands lye between me and the new Cut, for carrying my Waters in a straight Course into it.

The Curvatures of the old River, tho' they might lengthen the Course of the Drainage and the Navigation, yet if made sufficiently wide wou'd not retard the former, nor obstruct the latter, perhaps accelerate it by shifting and turning to the Wind, and saving the passing thro' Bridges. But however, giving up the Navigation from the old River to the
new

new Cut alone, which I do reluctantly and against my Judgement and the Conviction of my own Mind, yet the old River shou'd by all means be open'd, clean'd and maintain'd at the public Expence, as a general Boundary, and public Drain, at least 12 or 15 Feet wide, as it will be an additional and collateral Aid to the main one, both for the uses of Drainage and Navigation, and particularly useful for carrying off the Waters (which can go no other way so easily and cheaply) whilst the main Canal is cleaning, or under any Works of Repairs. I think every Gentleman who has an Estate above *Brigg*, equally concerned in this Point with myself, but I move it upon general Principles.

I cannot but lament in this place that no Gentleman will take the trouble of surveying the Level as the Works go on, in order to make himself acquainted with the History, Situation and Circumstances of it, to enable himself to give Directions to Surveyors, Engineers &c. as to what Works are proper to be done, and in what Manner, or that the Trust do not appoint Committees of Gentlemen for that Purpose,

So far from it, they all, from what I can judge, from the little I know of the Level, and see of them, seem totally ignorant, so that when any Question or Motion arises upon

it, they give up all their better Sense, Judgment and Understanding implicitly to the bold and confident Assertions of the lowest and most illiterate of their Servants, their Surveyors, Undertakers, &c. as if they were in any Degree competent Judges of such nice Mathematical Points, far above the Rank of their Capacity.

The settling the Limits of the Level (a Point of the utmost Importance to be done with the most accurate Precision, and in the highest Floods) was left to Surveyors, who did it in the Summer Time, and were to take their Informations as to the high Water Mark to determine the Lands overflown, from *John-a-Nokes*, or *Tom-a-Stiles*, and whose Surveys consequently must necessarily, without impeaching their Attention and Fidelity to their Trust, be very erroneous and incorrect. I know of some Mistakes of low Grounds not included in the Survey, which ought to have been, and not being so, is an Injury to the rest in the Level, who pay for the draining them. Many other Informalities and Irregularities might be pointed out in their Proceedings, and Works, if enquired into.

But to shew how unacquainted many Gentlemen are with the Level; One Gentleman in a Question last Meeting, held up his Hand to condemn and abandon poor old *Ancholme* as useless, who 2 Days afterwards knew nothing
of

of some Lands which he had lying upon it, and therefore did it in pure Ignorance against his own Interest, not knowing it any Way concern'd. But the old *Ancholme* was clean'd out against another Estate of his, and not knowing he had any Thing further on it, he was not willing to extend the same Benefit, which he himself had receiv'd to me and others higher up. Another too, who has a Plan of the Level continually before him, and attends every Meeting, wondered at my not entirely acquiescing in the new *Ancholme* alone, as he thought it run all along the Side of *Redbourn*, whereas it scarce touches me, and the old River is the Boundary. Another approv'd (aside to me) of my opposing these private Ditches being done by the public Money as unjust in itself and dangerous in its Consequences, as it wou'd entail them upon the Public, and I have since found that he signed the bye Law, by Virtue of which all these Things were done.

When I had wrote thus far, the Clerk of the Drainage was so obliging as to Favour me with a Communication of the Minute Book of the Commissioners, out of which I shall subjoin an Extract to Corroborate my Allegations, and as a Specimen in what Manner, and to what Persons, and to what Purposes the public Money has been expended.

L. S. D.

June, 1767, 86 1 6 4, To Mr. Bennet, for the
Act and his Trouble.

15 July, 100 To Mr. R. Leadbetter, for
Attendance on the Bill.

Mr. R. Leadbetter to inspect
and clean the *West Drains*, &
Mr. Thomas Dunderdale, the
East Do. below Brigg.

12 August, 84 14 0 To Mr. Daniel Scott, for
Attendance on the Bill.

20 14 8 To Mr. Dunderdale.

18 Nov. 120 10 0 To John Ashton for shear-
ing from Brigg to Bishop Brigg.

6 Apr. 1768, 6 8 1 To Mr. R. Leadbetter, who
was appointed for the upper
Level, vice Ashton, at 42l.

11 May, 10 10 0 To John Ashton, as a Re-
compence (for doing his Work
so as to deserve a Dismission)

4 July, 24 16 8 To Thomas Dunderdale for
cleaning below Brigg.

2 August, 10 10 0 To Do. for his Trouble.

On Complaint of R. Roadley,
against Mr. R. L. &c. Both
the old and new *Ancholme* or-
dered to be sufficiently scour'd
out and cleans'd. Signed a-
mong the rest by J. Hewett.

1 Nov.

1 Nov. 26 4 0 To Thomas Dunderdale, for
River and Main Drains, between
Brigg and Ferraby Sluice.

22 Nov. 1 12 9 To the Constable of Broughton
for Broughton Bridges.

25 10 0 To R. Leadbetter, for Charges
and Trouble in the Drains to
Sir Row. Wynne's Clough.

6 Ap. 1769, 42 0 0 To Rog. Leadbetter, from
Brigg, to Bishop Brigg, — very ill
done, and very little at the River,
but most at Househam and
Cadney, &c.

2 June, 40 0 0 To J. Cocks, for old and new
Ancholme for the Year ensuing
(offered to be done at 30l. but
rejected, because Househam and
Cadney Drains were not included.)

3 July, 7 0 0 To R. L. for measuring the
River, &c.

15 Aug. 10 18 6 For cleaning the River
to Ferraby Sluice.

14 0 To James Parkinson, for
Broughton Bridges.

12 Sept. 10 10 0 To T. D. for his Trouble.

10 Jan. 1770, 16 17 0 To Do. for cleaning the
River Ancholme, from Brigg to
Ferraby Sluice.

22 18 0 To R. L. for Do. from *Brigg*
to Sir *Row. Wynn's* Clough.

5 May, 10 10 0 to T. D. for his Trouble.

6 Nov. 6 6 0 To Do. for looking after the
Lock.

1 July, 1771, 12 17 0 To R. L. for scouring
the *public* (some probably his
own) Drains in *Broughton* and
Appleby.

— 3 3 0 To Do. for his trouble.

At this Meeting it is adjudg'd *necessary* (alias
convenient) that the several *public* or *main*
Drains (alias private Ditches) running thro'
the several Lordships, within the Level of
Ancholme, shou'd be well and sufficiently
scour'd out and clean'd. And that doing the
same wou'd be very *essential*, (alias clever) for
the Purpose of a *General* (alias private) Drain-
age. Therefore it is order'd that the same (I
ask which, and how many) be scour'd out and
cleans'd as soon as conveniently may be, (what
follows in a Parenthesis is interlin'd (and from
Time to Time, and at all Times, to be kept
scour'd out and cleans'd) and that the Trea-
surer pay the Expences for doing the same out
of the Money rais'd by the Act.

Thirty Pounds more to Mr. *Thomas Dunder-*
dale's yearly Salary which was before 125l. in
all 155l. Something better than Captain's Pay
being

being 12 or 15 Shillings a Day for the Time any Works are done, about 6 or 8 Months.

That Mr. *Dixon*, and Mr. *Wright* shear, scour, and cleanse the River *Ancholme*, (the old one I dare say) from *Redbourn* to *Bishop Briggs*, new Doors to Sir *Row. Wynn's* Clough.

I shall comment no further on the above Articles, (one excepted) as the Reader will see at a Glance what Sums have been expended on the private Ditches and Drains in *Broughton* and *Appleby*, and also on the East Side below *Brigg*, and also in *Househam* and *Cadney*, since the Commencement of the Act; whilst not one single Shilling has been laid out within *Scawby*, *Hibaldstow*, *Redbourn*, *Waddingham*, or, I believe, any other Lordship, either to the East or West above *N. Kelsey*, or even the *Ancholmes* sufficiently shear'd. Another Remark I wou'd make is, that the Ditches and Drains in *Broughton* and *Appleby* are, by an extraordinary Figure of Speech, call'd public Drains. Now I shou'd think public Drains are what the public Waters pass thro', such as the Drain from *Ferraby* Sluice to *B. Brigg*. For the Waters of every Town, on the Level, pass into and thro' that Drain in one Part or another. But no Waters but their own pass thro' *Broughton* and *Appleby* Drains, and therefore they can in no Sense be public Drains. 'Tis true, the lower Lordships, on these Side
Drains

Drains may carry off the Waters of those above them, and therefore they may say they are oblig'd to have their Drains somewhat wider; but is it not the same Case with all Lands lying upon the long Course of a Brook or River, and yet is no Pretence on the lower Grounds having any Demands on the upper for carrying off their Waters?—But, however, I believe it was to solve all these Doubts and Difficulties, and to salve their own Proceedings, that the Commissioners, by their almighty Power, made that most extraordinary Resolution of the First of *July*, 1771, by which they defin'd, voted, and decreed (without any particular Description or Designation of them) which I suppose they were to determine afterwards as they pleas'd, the private Drains running thro' the several Lordships in the *Level* to be main and public Drains, necessary and essential to be done for a *General Drainage*. They might as well have declar'd plashing their Hedges and repairing their Houses as necessary for a *General Drainage*.

Indeed, there were many Commissioners present who saw the Illegality, and Unjustifiableness of it, and therefore strongly oppos'd it and wou'd not sign it. It was also done, as I have been assur'd, contrary to the Opinion, Advice, and Approbation of one, who, tho' not authoriz'd to determine, shou'd yet have been attended

attended to in Points of Law: I once thought of adding the Names of those who signed the above; but out of Regard and Tenderneſs to them, and as I wou'd not willingly hurt or offend any one, I ſhall omit it.

I leave them to their own Reflections. But in Juſtice to them who did not ſign it, it was neither Mr. *Boucherett*, nor Mr. *Thompson*, nor Mr. *Skelton*, nor Mr. *Empſon*, tho' I believe the two former were not preſent, nor have I ſeen the Name of the firſt in the Book ſince, as I wou'd hope, from his Diſapprobation of ſuch arbitrary and partial Proceedings, and in my Opinion directly contrary to the Opinion of Mr. *Phipps* upon the Caſe. But perhaps the Act gives them unlimited abſolute Power to do whatever they ſhall think proper, ſo that they may ſay with *Drawcanſir*, *All this we do, becauſe we dare and can do it.* To this, if it be ſo, there can be no other Answer, than that it is a Power which was perhaps not intended, or at leaſt ſhou'd not have been given, and that what they dare, can, and have done, is what they *ought* not to have done.

I ſuppoſe it is in conſequence of this Reſolution, that the Surveyor has ſpent a great Part of the Summer in cleaning the Ditches in *Houſebam*, *Cadney*, and the *Kelſeys*, under Pretence of turning the Water, (by the bye up Hill) in which time he might have

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Drains may carry off the Waters of those above them, and therefore they may say they are oblig'd to have their Drains somewhat wider; but is it not the same Case with all Lands lying upon the long Course of a Brook or River, and yet is no Pretence on the lower Grounds having any Demands on the upper for carrying off their Waters?—But, however, I believe it was to solve all these Doubts and Difficulties, and to salve their own Proceedings, that the Commissioners, by their almighty Power, made that most extraordinary Resolution of the First of *July*, 1771, by which they defin'd, voted, and decreed (without any particular Description or Designation of them) which I suppose they were to determine afterwards as they pleas'd, the private Drains running thro' the several Lordships in the *Level* to be main and public Drains, necessary and essential to be done for a *General Drainage*. They might as well have declar'd plashing their Hedges and repairing their Houses as necessary for a *General Drainage*.

Indeed, there were many Commissioners present who saw the Illegality, and Unjustifiableness of it, and therefore strongly oppos'd it and wou'd not sign it. It was also done, as I have been assur'd, contrary to the Opinion, Advice, and Approbation of one, who, tho' not authoriz'd to determine, shou'd yet have been attended

attended to in Points of Law: I once thought of adding the Names of those who signed the above; but out of Regard and Tenderness to them, and as I wou'd not willingly hurt or offend any one, I shall omit it.

I leave them to their own Reflections. But in Justice to them who did not sign it, it was neither Mr. *Boucherett*, nor Mr. *Thompson*, nor Mr. *Skelton*, nor Mr. *Empson*, tho' I believe the two former were not present, nor have I seen the Name of the first in the Book since, as I wou'd hope, from his Disapprobation of such arbitrary and partial Proceedings, and in my Opinion directly contrary to the Opinion of Mr. *Phipps* upon the Case. But perhaps the Act gives them unlimited absolute Power to do whatever they shall think proper, so that they may say with *Drawcanfir*, *All this we do, because we dare and can do it.* To this, if it be so, there can be no other Answer, than that it is a Power which was perhaps not intended, or at least shou'd not have been given, and that what they dare, can, and have done, is what they *ought* not to have done.

I suppose it is in consequence of this Resolution, that the Surveyor has spent a great Part of the Summer in cleaning the Ditches in *Househam*, *Cadney*, and the *Kelseys*, under Pretence of turning the Water, (by the bye up Hill) in which time he might have

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made the main Canal to *B. B.* in short Stretches, and by turning the Water along the old River. For there is no Order for their being done in the Book. And, indeed, he and another Gentleman, mention'd in the foregoing Extract, seem to me to have the sole Direction as well as the Execution of the Drainage, tho' the Commissioners meet sometimes in due Form.

I hope, when I meet you, to lay before you all the private Works which I say no Way belong to the General Drainage, (and which yet have been paid for with the public Money,) from an actual Survey of them, unless I, or the People I shall employ for that Purpose, are knock'd o'th Head by your Surveyor, who seem'd to threaten some such Thing, if we were so impertinent as to come and look at his Works.

I shall say nothing as to the immense Sum which has been expended on the Drainage. *Mr. Marshall*, of *Theddlethorp*, estimated it at 15,000*l.* and *Mr. Yeoman*, an eminent Engineer, since at 16,000*l.* and which I am sure, with Oeconomy and Prudence, wou'd have been fully sufficient for all the Purposes of a *General Drainage*: and yet you have spent above double that Sum already, and it is not near finish'd. Perhaps it is impossible in these public Works not to be cheated and impos'd
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on a little. But by what I have seen, and have been inform'd of their Works, near *Rdbourn*, there seems a shameful Waste of the public Money, not only from the Idleness of the Dykers, but from the Want of Knowledge, Command, and Attendance in their Superintendants. Nor can I speak well of the Act itself. It has greatly injur'd me, The old one was a much better. It took only a determinate Price—the third Part of your Estate for the Drainage of it. This takes away either the Whole, or a 3d, or a 6th, or only a 9th, according as you happen to have very bad, indifferent or very good Land. I am unfortunately one of the first Class, and being unhappily possess'd of a barren Soil, where too much Water was, must bear the same Burthen with the richest and most fruitful. And that even after 2000l. (almost the Purchase of the Land) had been expended in a Bank, an Engine, and other Works of private Drainage, and 200l. within these ten or twelve Years in repairing them, and which Works had succeeded so well that we had not lost our low Grounds above once (just before we repaired our Banks) in fifty Summers, when most or all those on every Side of us were generally flooded and lost.—And tho' these are the only regular Drainage Works in the whole Level, yet has *Redbourn* no Consideration or Indulgence, except what

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trifling

trifling one is contain'd in a Clause, and even of which it is depriv'd by the Obscurity and Unintelligibility of the very Clause, which is known to have been purposely design'd for *Redbourn* and some others; the Misunderstanding of it by the Commissioners of Appeal, who have therefore given a wrong and undefensible Determination, and which upon that Account only, and a most obstinate Rancour, the Commissioners continue not to grant, tho' the Possessor has prov'd his Right to that Claim, unanswerably (for none has answerd him but by a Reference to the Sword, or, in other Words, the Determination of the Commissioners of Appeal) by every Rule of Grammar, Logic, Reason, Equity, and better Pretensions than it has been granted to other Lordships; *Bishop Norton*, for Instance, which has not a single Bank or Engine to defend it from sudden Floods, and therefore is in no Measure drain'd, but quite open and *liable* to be flooded, and has consequently been frequently lost, when *Redbourn* has been sav'd. But Arguments, Reason, Equity, Intention, Meaning, even corroborated by Mr. *Dunning's* Opinion on the Case, are nothing in Comparison of a Decision against them, however wrong; tho' Sir C. *Wray* found out more Informality than I did in their Proceedings in that Point. But I do not insist upon that,

tho'

tho' it may be a just one; As I desire to obtain nothing from Blunders, Mistakes, nor even Favour, but from Justice: nor do I see the least Prospect of any Remedy or Relief. There might have been some in the frugal Management and Application of the public Money. But as the Commissioners seem'd determin'd by their Execution of it to go to the full Extent of their Credit, it will be a perpetual Millstone upon the Necks of those who are oppress'd by it, tho' no Yoke at all to others, who will not only throw that but in all Probability a great Deal more in Rent upon their Tenants, from the Advantages they will receive by it.

So that upon all these Accounts, I cannot see how the Act has answer'd the modest Promises that were made for it to me by its Godfathers, that it shou'd be free from all the Errors, Defects, and Imperfections of all former Drainage and Navigation Bills whatever; or deserv'd the Encomiums bestowed on the Bill by the Speaker and many Members, (tho' the former told me some Time after that he knew nothing of the Particulars of it) as the most perfect and equitable one ever presented to Parliament. For I shou'd think that laying on a Tax of 2s. 6d. per Acre, indiscriminately on all Lands in a Level, whether good or bad, already drain'd or not drain'd, capable

or incapable of either Improvement or even Drainage, without the least Regard to each Man's Proportion of Property in it, or Degree of Benefit to be respectively deriv'd therefrom, did not require or shew any great Mental Abilities or Powers, and is quite different from the Mode adopted in the *Holderness* and *Witham* Drainages. To speak my Opinion of it, however accurate it may be in it's Regulations to mark Boats and such trivial customary Circumstances, the main Principle on which it is built is to the last Degree absurd, unjust, and oppressive, and not to be paralell'd but by its younger Brother in *Nottinghamshire*, by all Accounts.

Alas poor *Redbourn*! What hast thou ever done to provoke the Rage and Malice of thy Enemies against Thee? And to make the Stroke cut the deeper, it came from thy Neighbours and Acquaintance, and those whom thou vainly flattered thyself were thy own familiar Friends, whom thou hast talked, and walked with, and taken sweet Counsel together; But alas! Friendship, Honour, Justice, Truth must all fall a Sacrifice to the Altar of Interest. Thou didst never stir out of thy peaceful Domains to disturb and invade the Possessions of others, and to impose Laws and Taxes upon them which they were not able to bear, pretending to know their Interest, Situation,

ation, and Circumstances better than their Possessors. Or if thou didst step out, it was never to injure Individuals; but to do some public Good, as thou canst appeal (pardon thy boasting) to those Monuments, the Bridge and Causeway, leading over that very Spot where thou hast receiv'd so much Wrong, and canst challenge any one of the Commissioners to shew as much. And yet thou canst not obtain the least Justice from them, whilst others who will be greatly benefited by the Principles of the Act itself, receive also the greatest Attention, Favour, Complaisance, and Douceurs at the public Expence in the Execution of it.— But *Redbourn* meets not with any one Friend or Advocate in the House of Commons, to defend it from Wrong, nor a little Finger held up for it at a Drainage Meeting to do it even Justice, much less to Redress its Wrongs; or alleviate its Hardships. Thou hast always contented thyself in cultivating thy (by Nature) too barren Fields, and perhaps at an Expence far beyond their worth, yet from hence the Neighbouring Poor were cloathed, and the Hungry fed, and when thou vainly flatter'd thyself thy Blossoms were a ripening, a most cruel Spoiler came and at one Stroke robb'd thee of all the Fruits of thy Labours on one Part of thy Lands.

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But where Interest is the ruling Passion, and a Rage to increase our Estates; Expectations of Redress are chimerical. Pride and Obstinacy, mixed with Interest, keep those who do thee Wrong from either seeing, or at least owning it, and consequently making some Satisfaction for it, and those who did not actually do it, but are however great Gainers by it, solace themselves with the Advantages they get, so as to acquiesce in it without the least Desire to do Justice. Upon what other Principle can it be accounted for, that when an Act is found to be absurd and unjust, tho' Thousands are spent not only in the most injudicious but unjust Execution of it, yet one or two Hundred is grudg'd to rectify Blunders, correct Abuses, and redress Injuries, all which might be easily done by a new Bill, and without any Danger or Hurt to the Creditors upon it.

But I beg Pardon for this long declamatory Digression, which contains little more than what I have frequently had the Honour of saying to you at your Meetings, without any Answer, or, as I cou'd perceive, any Impression. I speak my Sentiments with great Freedom, and I hope with as much Candour and as little Severity as is consistent with my superior attachment to Truth and Justice. I declare I have not the least ill Will or Resentment
against

against any one Commissioner, tho' I must and do totally disapprove and condemn their Proceedings and Operations. I therefore move 1st. That to the Thousands thrown away, two Hundred may be expended towards obtaining a new Act, wherein the Obscurities of the present one may be explain'd, the Mistakes corrected, and the Hardships and Injustice redress'd. 2dly. That as separate Accounts of these private Side Works have been kept, certainly from a secret Consciousness that they shou'd not fall upon the Public, they be deliver'd respectively to the Possessors of the Lands on which the Money has been expended, who I hope from the Principles of Honor and Justice, will be as willing as they are able to refund it. 3dly. That you will take into Consideration, and determine what shall be deem'd public Works to be made and maintain'd as such for ever hereafter at the public Expence; and I think none can with Justice and Propriety be deem'd such but the Lock, Sluice, and main Drain or Drains from *Ferraby* Sluice to *Bishop Briggs*, particularly the old River above *Brigg*; which tho' excluded from the Honour of being the principal Canal, yet as the Boundary between all the Lordships, and the natural Drain of the Level, shou'd at least be kept open and maintain'd at the public Expence, as an Auxiliary and

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useful Drain, to which every private internal Ditch in every Lordship tends and no farther.

If you will act upon some such Principles, I shou'd be happy to co-operate with you. If not, as I cannot approve of any other, I shall never trouble you with any further Impertinence, but sit down contented and give up 75l. a Year out of an Estate already in a great Measure drain'd, and brought, as I in my Conscience believe, to its highest possible Value of 150l. a Year; and that for ever, or as long as the national Debt remains, from your Method of executing the Act: and heartily wish with that 75l. a Year out of my Estate, together with your own Taxes, you may be able to double, treble, and some quadruple your Estates above the Rent they bore in their late drowned State.

An APPEAL against M^{rs}. Hewitt, Boucherett, Sir J. Webb, Thompson, Anderson, Nelthorpe, Parker, Richardson, Hudson, Saunderson, Empson, Skelton, Hargrave, Kirke, Weatherhead, Dixon, Wright, Hyldyard, Leadbetter, &c. acting Commissioners in the ANCHOLME DRAINAGE.

1st. **W**HETHER the Reasonableness of some Indulgence for *Redbourn* was not universally admitted, and a Clause particularly promis'd before the passing the Act, and the Clause afterwards allow'd to be design'd for it by the very Commissioners, who nevertheless (tho irregularly) sign'd almost the full Assessment against it?

2^d. Whether by such Act and the whole Tenor of their subsequent Conduct, they have not broken their Faith, Word and Honour with *Redbourn*, as well as violated the Rules of Justice?

3^d. Whether it was friendly or honourable in those, who amus'd and deceiv'd the late Possessor of *Redbourn* (confin'd to his Chair and unable to attend his Interests personally at the

Committee) with a Falsehood; that they had obtain'd a Clause in the Bill for *Redbourn* to pay only one third for ever; till it was too late for the present Possessor (who undeceiv'd him) to oppose it with Effect; under the Disadvantages of a total Want of Friends, and as total an Ignorance of the Forms and Methods of Proceeding; and especially after Mr. H. upon second-Hand and the falsest Information had point blank denied all his Allegations in a Place, where the Petitioner had not the Liberty of reasserting and proving them: by which Stroke of Oratory his first Attempt to obtain some Relief was quite knock'd o'th Head.

4th. By what Rule of Reasoning the Commissioners have determin'd *Redbourn* to be *in no Measure* drain'd, there being no middle State or Term between that and being in *some Measure* drain'd? *Redbourn* alone of all the Lordships at least in the upper Level has had a Bank, an Engine and other Drainage Works erected on it at a great Expence, by which Means, not one Inch of the Carrs have been lost for near 50 Years together, (one or two Summers only excepted, and then only an inconsiderable Part of them by an extraordinary Flood coming over the Banks, since repaired) and the getting them so insur'd to the Tenant upon a moral Certainty (not a Physical one,

as Mr. B. demanded, and which can't be insur'd even to the Commissioners own Works) as to be let at a stated Rent of 5s. *per* Acre; far indeed above the present or possible future intrinsic Value of the Land, but the Price of its Conveniency to the Uplands. This the Possessor had the Honour to prove to the Commissioners three Years ago, by an Evidence since dead, who help'd to make the Banks and had mown in the Carrs ever since; and in November 1772 by Mr. *Holgate* and *F. Brailsford* Occupiers of the lowest Carrs in *Redbourn*, the former for above 20, and the latter for these 35 Years; who depos'd that they had never lost them in all that Term, except an inconsiderable part of them one Summer as before mention'd. They further declar'd to the Commissioners, that they had often seen the Engine work to that Effect, as to drain every Drop of Water to the Bottom of the Ditches, so as to be oblig'd to stand still for Want of Work till the Waters came down again from above. Mr. *T. Holgate* express'd his Opinion of the Efficacy of the Engine so strongly, that he always us'd to declare, when he thought they neglected working it by taking off the Engineer to other Work, that if he had had the Command he wou'd have ensur'd to pay 5l. for every Acre of the Carrs lost. Yet this Engine, and these Drainage Works the Commissioners

missioners in their Resolution of the 6th. of October 1772, have declar'd (without having ever seen the Premises) ineffectual (or as they shou'd have more fully expresd it to justify their Resolution) *totally* ineffectual towards the draining of the Lands in *any* Measure.

5th. Why *Redbourn* under these Circumstances shou'd be put on the same Footing with *Scawby*, *Hibaldstow*, the *Kelseys* and *Waddingham*, which (as set forth in the Preamble of the Act) have been lost generally, (except by the Favour of dry Summers) when *Redbourn* has been got in the worst Summers. Lord *Monson's* third Foot Land has been so totally lost, that for many Years they could not be let for any Rent at all. The Possessor of *S. Kelsey* in particular declar'd before the H. C. that all his Lands there of near 500 Acres were so totally lost, that he cou'd not get 40s. a Year for them all, and yet in 1766 and 1767 at the passing of the Bill he declar'd *Redbourn* & *S. Kelsey* in the same Condition. Nevertheless in the Summer 1766 when he alighted on the Banks of *Redbourn*, he might have seen at the Engine the Water stand fourteen Inches lower within than without the Door, as it was seen by the Possessor and several other Gentlemen only two Days afterwards; and the very lowest Carrs in *Redbourn* were mown and got that Summer, whilst the Possessor was forc'd

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to defist from depasturing a Carr that lay without the Banks two Miles higher up, and directly opposite to Mr. H. Estate. How then were they in the same State and Condition? Indeed Mr. A. goes a Step further now than he and Mr. H. and Mr. L. did before the Committee; and declares that *Redbourn* is in a worse Condition or State of Drainage than all the rest of the upper Carrs. Indeed upon further Conversation, he acknowledged "he had never been in any other Carrs," (Q. how then could he know whether *Redbourn* Carrs were better or worse?) "that he had seen *Redbourn* only in the Winter when he was Fox-hunting," (at which Time it is not contended that they are in a better Condition, as they lie quite open to the rest of the Carrs by a wide Wathstead as it is call'd, or Road Way to a Carr without the Banks, and which is always bank'd up again in Spring, when the Engine is set to work to throw out the Water) "and had never seen them in the Summer," the only Time when the Efficacy of the Drainage Works is to be seen and judged of. For they have been got when the rest were lost. Therefore they are not in the same or worse Condition but in a better, and Therefore &c. Probably this Gent. and Mr. L. who says he has sail'd over *Redbourn* Banks in fifty Places, (an absolute Impossibility for these last fifteen Years) were
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the other Information mention'd in the Resolution of the 6th. of October. For the Informers were not known to, nor confronted with the Witnesses for *Redbourn*. The same were the Evidence probably prepar'd in Case of a Trial. Such O *Redbourn* are all those who hear and bear Witness against thee. For they as weakly as maliciously imagine, that if they can get some Fellow to witness that he has gone in a Boat over the Banks in the Winter and when out of Repair, (which if it was so wou'd prove nothing to the Point) or that the Carrs have been wet and slappy when they were got, (which from the spongy and peaty Quality of the Land they will always be in wet Seasons, are so at this Time tho' the Drainage is carried far beyond them, and will be so in the most perfect Drainage, and even if the Lands were to be carried to the Top of the Wolds) they destroy and set aside that plain, obvious, striking, leading, discriminating Criterion or Distinction between *Redbourn* and its surrounding Lordships, that every Acre of the former has been mown and got (no Matter how as to Slappiness) in the wettest Seasons for fifty Summers together, except an inconsiderable Part of them about fifteen and thirty five Years ago, by an extraordinary Flood over the Banks then wanting Repair; whilst all the other Lordships have been generally
lost

lost, and never got but by the Favour of dry Seasons, and the Water sinking into the Earth. Whereas the Drainage of *Redbourn* has been in the wettest Seasons effected by the Force of Art and the Efficacy of an Engine in Spite of surrourding Waters. Such are the Commissioners of the *Ancholme Drainage*, and such their Tools and Engines they work with. They seem to take their Ideas and Reasonings at second Hand from a certain Class of Men, whose Understandings generally squint, and never see Things in the plain Light in which all the rest of the World see them. For Instance, set up a white Object. They immediately look out for some little dirty Spot, and if they are so happy as to find it, they fix their Eyes so intently upon it, that they will not only deny the Object to be white, but are ready to contend that it is black.

6th. By what Rule of Reasoning have they granted the Indulgence to the whole of *B. Norton*, which is in no Sense drain'd; having no Drainage Works, neither Bank to defend it from a Flood; nor an Engine to throw it out, nor an Outfall to carry it off, but is open and liable to all Inundations, (which are very frequent by Freshes from *B. Briggs*) and consequently frequently lost, and only got by the Advantage of a higher Situation, and the
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Favour of dry Seasons. It was one white Sheet of Water, and probably has been so ever since the 6th. of October, when Mr. *Hildyard* one of the principal Proprietors fal-
 lied forth from *Harpfwell* with a full Prospect of it, if he look'd that Way, and as it is to be feared from the Event, with very undue and malevolent Dispositions against *Redbourn*, from a very foreign Cause. For on that Day and the 3d. of November, he voted plump against it, not that he did, cou'd, or probably had any Thing to say in Support of his Opinion, or to invalidate the Arguments and Proofs adduc'd in Favour of *Redbourn*. For as to Mr. Dunning's Opinion on the Case of *Redbourn* hereunder subjoin'd, he express'd aside to a late Commissioner his total Disregard and utter Contempt of it, (as must also the other Commissioners to be consistent) in Comparison of his own. And to be sure his own must be better, as two are more than one. For like an able Lawyer, he seems to have two Interpretations of the same Clause, one for himself and another for his Neighbour, if *he could really think* the Indulgence due to *B. Norton* and not to *Redbourn*.

7th. Whether according to the common Import of the Word Drain'd, as corroborated by Mr. D. Opinion on the Case, *Redbourn*
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be not the only Lordship, to which the Indulgence cou'd with Propriety be granted?

8th. Whether, supposing the Point not clear, Commissioners of any Candour wou'd not interpret a Clause in the most favourable Sense, especially with such an Authority, and whether Humanity wou'd not induce them to shew all the Indulgence in their Power, considering the great Expence of a previous private Drainage, the Degree of Efficacy it was attended with, and the very little additional Benefit (very inadequate to the Tax) to be expected from the extream Poverty and Barrenness of *Redbourn Carrs*?

9th. Whether their Determinations upon *Redbourn* be not contrary to their Promise; to the Intent, Meaning, and even Letter of the Clause, to notorious Matter of Fact and Evidence, to Candour and Humanity; to the Opinion of Mr. Dunning, and to the general Sense of ninety-nine Persons out of a hundred throughout the Level. (the Honourable Commissioners themselves not excepted) For when the Possessor in his Harangues frequently has ask'd thirty or forty of them together, whether any one there did not know or believe *Redbourn* to be in a superior State of Drainage, and did not expect there wou'd be

some Indulgence for it, and whether they were not surpriz'd to find it depriv'd of that Benefit; tho' a long Pause was made for an Answer, not one had the Courage or Sincerity to declare himself to the contrary.

10th. On what Principles of Justice, Law or Equity, did those Commissioners act, who signed the Order for the Assessment of *Redbourn*, and in Excuse owned they thought it Wrong: but that if they granted the Indulgence to *Redbourn*, they shou'd be put to the Trouble of Appeals of the same Nature from many other Parishes.

11th. Was it consistent with the Conscience of those Commissioners acting under an Oath to do Justice to all, in the Execution of the Trust reposed in them by Parliament, to act unjustly, and against their avowed Opinion to one Man, that they might not be under a Necessity of doing Justice to more?

12th, Why, when an Order was made to clean the two Rivers from *Brigg* to *B. Briggs* and sign'd by Mr. H, the old River was clean'd out against Mr. H. Estate only, and not touch'd where it runs by *Redbourn* and *Hibaldflow*, and the greatest Part of the Money order'd for the Rivers laid out on the private Ditches

Ditches and Drains in *Cadney* and *Househam* every Year, tho' not mention'd in the Order?

13th. Why an Order was granted June 1771 on the Application only of Mr. Wright and Mr. Dixon, for the old River to be clean'd from *Redbourn* upwards at the public Expence?

14th. Why is the old River deemed and treated and clean'd as a public River just from Mr. H. Estate, and immediately ceases to be one, when it arrives at *Redbourn*, and there is thrown upon the Proprietor to do?

15th. Are such Proceedings fair, just, impartial?

16th. By what Power or Clause are a Bridge over Planker Ditch in *Broughton* Common, two over the River in *Broughton* Parish where there us'd to be but one, three over some Drain in *Horkstow*, perhaps as many private ones in *Appleby*, *Saxby*, *Bonby*, and *Elsham*, built at the public Expence?

17th. Why are the Side Drains below *Brigg*, *Faraway*, *Pifs-a-bed* and other Ditches Drains and Becks in *Cadney*, *Househam* and *Kelseys* clean'd out at the public Expence, and declar'd

declar'd by the Vote of June 1771 to be *public* and *main Drains*, *necessary* and *essential* to be done towards a *general Drainage*, and from Time to Time and at all Times to be *maintain'd* at the *public* Expence: whilst not one single Drain, nor even the old River is allowed to be a public Drain to three of the Lordships on the West Side above *Brigg*, and which if not done, the Drainage will be of little or no Benefit to them, and likewise if thrown upon them to open and clean, will be throwing another additional Burthen upon them, almost equal to what they now already bear towards the Drainage in its present Form.

18th. If it be said these are done by Virtue of a Power to make Bye Laws, whether such Power does not wholly set aside the Act, and renders the Directions and Limitations therein of none Effect, so that by the same Power the Commissioners might build Corn Mills, Warehouses, &c. on what Estates they pleas'd, only declaring them necessary and essential to be done for a General Drainage?

19th. Whether the Act does not empower and direct the Commissioners to issue out their Orders to the Proprietors of the side Drains leading to the main Drain or River to clean them

them out? which Power is further confirmed by the Opinion of Mr. Phipps's *taken for that Purpose.*

20th. Whether that does not imply that those Side Drains shou'd be done at the private Expence of the Proprietors, especially as there is no exprefs Mention made of them in the Act to be done at the public Charge?

21st. If so, whether the doing them at the public Charge be not a Mis-application of the public Money, and consequently a Wrong done to every Individual Proprietor?

22d. Whether any Person of Honour wou'd ask or accept such private Jobs on such Conditions?

23d. Why is the old River *Ancholme*, (except from Mr. H. Estate upwards) neglected, rejected, and quite thrown out of the Plan of a general Drainage, which is an ancient River, the general Boundary between all Estates, the lowest, natural, and Mother Drain of the whole Level, to which all the private internal Ditches and Drains of every Lordship tend and terminate, whilst all its public Priviledges and Advantages are transferr'd to *S. Kelsey Beck, Faraway, Piss-a-bed* and

and many other still more ignoble, obscure, and unknown private Ditches ?

24th. Whether it was not Mr. H. Opinion that the old River shou'd be the only Canal above *Brigg* both for Drainage and Navigation ?

25th. Whether it wou'd not be on many Accounts more eligible than the new strait Cutt, which intersects private Estates very inconveniently, will be attended with very great Expence to the Public, by erecting Bridges of Communication to Lands so intersected, and which Bridges will be a greater Hindrance to the Navigation (if there shou'd be one, a Point not yet ascertain'd) than the Loss of Time wou'd be by following the gentle Windings of the old River, which wou'd not make a Difference of two Hours between *Brigg* and *B. Briggs*.

26th. Whether the Principle of Taxation in the Act of 2s. 6d. *per* Acre be not absurd, unjust and oppressive; contrary to every other Mode of Assessment, public or private, parochial or national, to the Principle of the general Law of Sewers of 23 H. 8, to all other Drainage Taxes, and to every Idea of Equity; implying that all Lands are of equal Value,

Value, in the same present drowned and future improveable State and Condition, &c. &c. Positions too absurd to mention.

27th. Whether there are not Lands in the Level, that neither are nor ever will be worth the Tax impos'd on them, and others of ten Times the Value.

28th. Whether the taking away the Value of the Land be not to all Intents and Purposes depriving a Man of his Property?

29th. Whether such depriving a Man of his Property be not equally unjust, whether it be effected by a Pistol, a Pack of Cards, or an Act of Parliament? For tho' the first Instrument may add Fear of Life, yet the last is often found to be the larger handed-Robber.

30th. Whether it would not be easy, tho' very tedious to demonstrate, that not one single Step (without Exception) which has been taken in the Drainage from its Commencement either in the planning, obtaining, and executing the Act, or in surveying, assessing, and draining the Level, has been agreeable to good Sense, Judgement, Skill, Oeconomy, Justice or Honour; and in many Respects

contrary to the Directions of the Act, by the very Framers of it.

31st. Whether any Gentleman of a scrupulous Conscience, or a nice Sensibility of Honour, wou'd engage in the Execution of an Act, the very Principles of which operate so unequally and unjustly, as to take away half the Property of those who have too unhappily very bad Land, to double and treble the Property of those who have very good ; unless it were to mitigate and soften the Hardships of the Act by a frugal, just, and rather favourable Execution of it to the Sufferers, rather than exaggerate the Evils of it by a most extravagant, injudicious, partial, unjust and oppressive Expenditure of the public Money.

32d. Whether the Commissioners tho' frequently forewarn'd of it, seem to be the least aware of the Consequences of their wasteful and unfaithful Management of the public Trust, which has already brought them almost to the utmost Extent of their Credit, or at least will before they have finish'd their Drainage. In which Case what is there left to maintain the Works in Repair, and pay off the public Debt ? The Consequence is obvious ; the Taxes must remain ; and all their Works go to Ruin and be of no Effect, or else they

they must again apply to Parliament for the other 2s. 6d. an Acre, and in that Case those who have very bad Land had better give it entirely away. Mr. *Yeoman* an eminent Engineer estimated the Expence of a General Drainage at 16000*l*. But he did not include in that the private Bridges and Ditches of *Househam, Cadney, Kelseys, &c.* These Gentlemen have already spent 35,000*l*. for which the Public has got only a good Sluice, a bad Lock, and ten or twelve Miles of an old Drain clean'd out; (all the rest is on private Account) and have not near finish'd the Work; nor can the Ways and Means; or in other Words, the Tolls and Taxes to raise Money on, be estimated at the highest at more than 2,500*l*. per Year, which will pay the Interest of only 50,000*l*.

Mr. DUNNING's Opinion on the Clause of Indulgence, taken by the Commissioners themselves for their Direction, upon the Claim and Appeal of *Redbourn* for the Indulgence.

“ The Act does not appear to me
 “ to make any Distinction, nor to au-
 “ thorise the Commissioners to distin-

“guish, between the Lands constantly
 “under Water, and those which are
 “only occasionally so; but it impow-
 “ers and *requires* the Commissioners
 “to impose an equal Tax on all the
 “Carrs and low Grounds within the
 “Limits of the Level, which are *liable*
 “to be flooded and overflown with
 “Water, with a Proviso in Favour of
 “such as are already in some Measure
 “drain’d. ”

“Under the Description of Lands,
 “*in some Measure already drain’d,*”
 “I do not understand those which
 “from their Situation are less fre-
 “quently overflow’d than others, but
 “those only, upon which (whatever
 “were the Degree of Inundation they
 “were before subject to) the Opera-
 “tion of draining has been *already in*
 “*Part* perform’d. — Which of the
 “Lands within the Level fall under
 “this Description, is a Question of
 “Fact, about which I shou’d suppose
 “it cannot be difficult for the Com-
 missioner

“ missioners to be accurately inform’d.
 “ These Lands (whatever be the Ex-
 “ tent of them) are for a given Time
 “ to be charg’d only one third of their
 “ proportionable Rate, on Account
 “ (as I understand) of the Expence
 “ which the Owners of them may be
 “ suppos’d to have already incurr’d in
 “ part draining them ; And it appears
 “ to me to be the Intention of the
 “ Act, that all others within the Level
 “ which are liable whether more or
 “ less, [no Matter in what Degree]
 “ to be flooded &c. and which have
 “ not yet been even in part drain’d,
 “ shou’d be tax’d alike. ”

November 3d. 1772, the Minutes of the
 former Meeting, the Oath of the Commis-
 sioners and Mr. Dunning’s Opinion on the
 Clause of Indulgence being mov’d for and
 read ; Mr. C. made a long Harangue in
 which he endeavour’d by Argument, sup-
 ported by Evidence, to prove the Illegality of
 their Assessment of *Redbourn*, as well as the
 Unjustifiableness and Partiality of their other

Proceedings

Proceedings in the Drainage, but without any Effect or Answer. And Mr. A. having his Hand on the Bell to call in Mr. L. who by this appears to be the principal Evidence against *Redbourn*, as well as the Oracle, Guide, Philosopher and Friend of all the Commissioners in all difficult Questions; and knowing that neither himself nor any Witness he did or cou'd produce was in any Degree of Estimation or Credit with the Commissioners, in Comparison with a Gentleman of Mr. L. Worth and Abilities; and Mr. A. having assur'd him the Sunday before that he wou'd sign the Warrants of Distress, and knowing from these two Gentlemen the Temper and Disposition of all the other Commissioners, he resolv'd to contend with them no longer, and told them, That he wou'd not give them the Trouble of signing the Warrants, nor keep them in suspense any longer; that he had dropp'd his first Design of standing a Trial with them, tho' he was sure no Judge or Jury (unless struck out of that Room) wou'd give it against him: tho' he shou'd neither employ Attorney nor Council, but rest his Pleas upon Matter of Fact, the Letter of the Act, the Informalities of their Proceedings, and the Misapplication of the public Money. That the Object of saving the Money was too inconsiderable to engage him

him in it, being only 50l. a Year for five Years which he apprehended they now took from him *contrary* to the Act, but which after the Expiration of that Time they wou'd have a Sort of Right to take *according* to the Act; and as the exposing the Absurdity and Injustice of their Proceedings, (his chief Motive for a Contest) wou'd not answer the Trouble, he gave the Point up, and even went further; and as he knew not the least Difference between one Part of *Redbourn* Carrs and another, being all let upon the same Footing, and being all equally in some Measure drain'd or not drain'd, and therefore if they had a Right to the full Assessment upon one Part they had it on the whole, the rest being in no better Condition, he cou'd not think of accepting any Indulgence for any Part, which wou'd be a Wrong to the Public, if their Determination was just. He therefore beg'd Leave to pay the full Assessment for the whole, and accordingly he laid down on the Table (with a Paper containing the Calculation of the Assessment for four Years) 297l. 16s. for 595 Acres, 2 Roods, 16 Perches, and (as he confesses, with this internal Reflection, *Satiare vos Auro, quod sitivistis*. And tho' he told them that he believed to the best of his Judgment, he then laid down the 10th. Part of the Inheritance of the Land; yet it seem'd not

not to make the least Impression on their Bowels, but they ey'd the Money with great Complacency and Satisfaction ; silently and secretly exulting in their Strength and Power, nor did it in the least offend the Delicacy of their Honour and Conscience to accept about 90l. more than the Assessment, for which the Treasurer gave his Receipt.

Sir *C. Wray* made several Efforts to make them retract their Resolutions, by shewing the Injustice of them, but without Effect. They continued obstinate, and in a sullen Silence express'd their Perseverance ; and Mr. *Carter* desiring him to desist from any further Attempts to plead his Cause, (the Issue of which he was very easy about) Sir *Cecil Wray* at length made a Motion to the following Effect, which was seconded by Mr. *Broadley*.

That the Determination of the Commissioners on the 6th. of October, whereby it was order'd that 325A. 14P. part of *Redbourn* Carrs stand charged with 2s. 6d. per Acre, and 270A. 2R. 2 P. the other Part thereof, be charg'd with 10d. per Acre, is arbitrary and oppressive, not founded on Evidence, and utterly inconsistent with Mr. *Dunning's* Opinion on the Indulgence Clause.

Messrs

Mess: *Thompson, Anderson, Parker, Kirk, Saunderson, Dixon, Hyldyard, Richardson, Empson, Hudson, Hargrave, Skelton, Bacon, Weatherhead*, against the Question; Sir *Cecil Wray, Monck, Broadley*, for it.

On this arbitrary Determination of the Commissioners, in support of their Order of the 6th. of October, Sir *Cecil Wray* and Mr. *Broadley* moved, that it be order'd "That Sir *Cecil Wray* and Mr. *Broadley* be discharged at their own Request from being Commissioners under the said Drainage Act, they refusing to act, which they conceive they cannot do any longer consistently with their Honour as Gentlemen, and the Oath they took for the due Execution of that Trust.

This (as it shou'd seem) humiliating and disgraceful Stroke on their Conduct, did not embarrass them much, or produce any other Effect than a short Stare of Surprise; so that they seem'd _____

_____and to shew what intoxicating and infatuating Charms Power has to transport its Possessors to boast what they can do, Mr. A. so far being in the least affected at the unanswered and unanswerable Charge of embezzling the public Money to private Uses in

H

Planker

Plankers Bridge, Househam and Cadney Ditches, &c. &c. said to Mr. C. as he was going out of the Room with Sir Cecil Wray and Mr. Broadley, “*that he shou’d ask for some more Bridges; to which the Reply was, that he might do what he pleas’d, for with him it was only to ask and to have.* And they went immediately to private Jobs, by ordering (on his Application) Bridges to Cadney, not expressly by Name but by the Description, “*where old Bridges were*” without ever considering whether they were public or private ones. Not that it is hereby insinuated, that there shou’d not be Bridges built there at the public Expence; but the Order shou’d have been a general one for Bridges to all intersected Lands, which have an equal Right and Claim to them; whereas making a particular Order for one Person, seem’d as if the Act was made for the Emolument and Convenience of a few, and *not of all.*

The present Case of REDBOURN.

Between fifty and sixty Years ago Wm. Carter came into Lincolnshire to take Possession of some Estates by Inheritance. Seeing the low Grounds in Redbourn in the Level of *Ancholme* totally lost and overflow’d with Water,

ter, he solicited the Proprietors of the Level to come into a general Drainage. None or few consenting, he at an Expence of about 1500l. and perhaps equal to the then Value of the Land, erected a Bank and Engine and other Drainage Works, by which *Redbourn* alone has every Summer since got every Acre of its Carrs, a very inconsiderable Loss excepted about 15 and 35 Years ago by extraordinary Floods over the Banks, then wanting Repairs. *Redbourn* Carrs, take them all together, are the worst and poorest in the whole Level. When the Commissioners of Appeal came to view them, tho' they totally mistook the Object of their Determination, and if they had understood it, view'd it in the Winter and in the highest Floods, when they cou'd not judge of the Point in Question, as they themselves confess'd, and consequently made a wrong, tho' a very friendly Decision, (for without any Rule, Ground, or Foundation whatever, which wou'd not have extended to the whole; but out of pure Compassion and Friendship, they granted the Indulgence for 2 or 300 Acres more than their Lords and Masters did upon the mere Report of an incompetent Surveyor) yet Mr. *Grantham*, who seem'd to take the Lead, declar'd from the State and Condition of it that it shou'd not in Justice have been tax'd at above one third for

ever. And another Commissioner, Mr. *Harnes*, a Gentleman conversant in Farming and consequently no incompetent Judge of the Value of Land, declar'd, that he wou'd not rent it to pay only the Drainage Tax, Probably many of the others, tho' the Tenants, Stewards, and Dependants of the Gentlemen against whose Assessment the Appeal was made, were of the same Opinion, if they durst avow it. Few People that have but an Eye without any deep Judgement in Land, but wou'd be of the same Opinion upon a View. Yet these Lands so in some Measure already drain'd at a great Expence, and so intrinsically barren from its constituent elementary Principles, as scarce to produce half a Load an Acre of the worst Hay in England, and consequently incapable of any further Improvement adequate to the Tax, are by a Law obtain'd and made by a few People of great Rank, Power, Interest, and Property, without any Consideration or Indulgence made subject to a Tax of 2s. 6d. per Acre, equally with the most drowned and fertile Lands; some of which immediately upon emerging out of Water, without any Cultivation or Improvement will be worth 20s. per Acre. Tho' *Redbourn* never will be the hundred Part of the Value of the Level, yet being unhappily the 29th. or 30th.

30th. Part in Quantity, it must consequently on the absurd and unjust Principle of the Act, be subject to the 29th. or 30th. Part of the Charge of the General Drainage. And still further, by the lavish, partial, and arbitrary Proceedings of the Commissioners in the Execution of it, and particularly by their Resolution of the 1st. of July, 1771, it is made subject not only to the Charges of the great, *necessary*, and *public Works* of a *General Drainage*, such as a Lock, Sluice, and main Drain, but also to the building, cleaning, and maintaining for ever Plankers Bridge in *Broughton Common*, and many other Bridges, Tunnels, Ditches, Drains, and other private internal Drainage Works in the several Lordships of *Broughton*, *Appleby*, *Horkstow*, *Saxby*, *Bondby*, *Elsbam*, *Househam*, *Cadney*, and the *Kelseys*, and whatever other private Sideworks they may hereafter think proper to do in any other Lordship. *Redbourn* disdains to ask, nor will accept (tho' in no Danger of being offer'd) any private internal Works to be done for it at the public Charge. But it asks, requires, and demands the old River to be clean'd out against it, as a public River, a general Boundary, and the natural Drain of the Level, without which the other Drain will be of very little Service to *Redbourn* and *Hibaldstow*, and if thrown upon the Proprietors will

Labour

Labour and Expence greater than the cutting the other main Drain. But it has not Interest with the Commissioners to obtain that Justice. Whilst the same old River is clean'd out and kept open at the public Charge just immediately above *Redbourn* against Mr. *Hewett's* and other Estates upwards, upon the Application only of a Mr. *Dixon* and Mr. *Wright*. But the Commissioners are not partial but honourable Men.



F I N I S.

